

COMPREHENSIVE ENVIRONMENTAL RESPONSE, COMPENSATION
AND LIABILITY ACT

14-43. Planning and Implementing Off-Site Response Actions

1. **AUTHORITY.** To exercise the agency's authority, pursuant to Section 121(d)(3) of the Comprehensive Environmental Response, Compensation and Liability Act, as amended, 42 U.S.C. § 9621(d)(3), and in accordance with 40 C.F.R. Section 300.440 to:
 - a. Determine the acceptability, and continued acceptability, of any facility being considered for the off-site treatment, storage, or disposal of CERCLA waste (40 C.F.R. § 300.440(b)(1));
 - b. Issue an initial determination of unacceptability if a facility does not satisfy the criteria for releases and relevant violations, notify the facility owner or operator of the initial determination of unacceptability, and notify the responsible agency in the State in which the facility is located of the unacceptability (40 C.F.R. § 300.440(d)(1));
 - c. Shorten or eliminate the 60-day review period in extraordinary circumstances, and notify the facility owner or operator of the date of unacceptability (40 C.F.R. § 300.440(d)(9));
 - d. Provide for, and conduct, an informal conference if requested by the owner or operator of a facility in receipt of an initial determination of unacceptability (40 C.F.R. § 300.440(d)(4));
 - e. Decide if the information provided either at the informal conference or in written comments demonstrates that a determination of acceptability would be appropriate (40 C.F.R. § 300.440(d)(6));
 - f. Extend the 60-day review period if more time is required to review the submissions, and notify the facility owner or operator of the extension of the 60-day review period (40 C.F.R. § 300.440(d)(8)); and
 - g. Reconsider an initial determination of unacceptability for a facility and notify the facility owner or operator of the decision (40 C.F.R. § 300.440(d)(7)).
2. **TO WHOM DELEGATED.**
 - a. Regional Off-site Contact, for the authorities in 1.a. and 1.d.
 - b. Chief, RCRA/OPA Enforcement Branch, for authorities 1.a. through 1.g.
3. **LIMITATIONS.**
 - a. Initial determinations of unacceptability under 1.b., and reconsideration of an initial determination under paragraph 1.g. shall be made with the concurrence of the regional counsel or his or her delegate.

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- b. If, however, the initial determination of unacceptability also includes a decision to shorten or eliminate the 60-day review period, the person with the authority to make that decision shall also issue the initial determination of unacceptability (with the concurrence of the regional counsel or his or her designee).
- 4. **REDELEGATION AUTHORITY.**
 - a. This authority may not be redelegated further.
 - b. An official who redelegates an authority retains the right to exercise or withdraw the authority. Redelegated authority may be exercised by any official in the chain of command down to the official to whom it has been specifically redelegated.
- 5. **ADDITIONAL REFERENCES.**
 - a. Executive Order 12580, Superfund Implementation, January 23, 1987.
 - b. Executive Order 13016, August 28, 1996.



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Date